

103D CONGRESS
1ST SESSION

S. 674

To require health warnings to be included in alcoholic beverage advertisements, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 30 (legislative day, MARCH 3), 1993

Mr. THURMOND (for himself and Mr. SIMON) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To require health warnings to be included in alcoholic beverage advertisements, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Sensible Advertising
5 and Family Education Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) Alcohol is by far the drug most widely used
9 and abused by young people in the United States
10 today, even though it is illegal for youths under age

1 21 to purchase alcohol in all 50 of the States and
2 the District of Columbia.

3 (2) According to the 1992 National Institute on
4 Drug Abuse survey of high school students and
5 young adults, 89.5 percent of high school seniors in
6 the class of 1990 had used alcohol at least once and
7 30 percent had experienced a “binge” of 5 or more
8 drinks in a row within the past 2 weeks. Among col-
9 lege students, 43 percent reported occasions of binge
10 drinking, including 35 percent of the females and 52
11 percent of the males.

12 (3) The average age at which young people
13 begin drinking is 13. By age 13, approximately 30
14 percent of boys and 22 percent of girls classify
15 themselves as drinkers. According to the 1988 Na-
16 tional High School Senior Survey, 17 percent of
17 high school seniors reported having been drunk by
18 eighth grade, 37 percent by ninth grade, 54 percent
19 by tenth grade, and 71 percent by twelfth grade.
20 Studies demonstrate that the use of alcohol by indi-
21 viduals before the age of 15 appears to be one of the
22 predictors of later heavy alcohol and other drug use
23 by the individuals.

24 (4) Young people are not well informed about
25 the hazards of alcohol use. Only 43 percent of high

1 school seniors believe there is great risk of harm
2 from drinking activities such as binge drinking once
3 or twice each weekend. More than one-quarter of
4 high school seniors do not view heavy, regular daily
5 binge drinking as entailing great risk. More than 40
6 percent of eighth graders, 45 percent of tenth grad-
7 ers, and 51 percent of twelfth graders do not per-
8 ceive having 5 or more drinks once or twice a week-
9 end as entailing a great risk.

10 (5) According to the Department of Health and
11 Human Services, sponsorships and promotions on
12 college campuses by alcohol producers and the use of
13 celebrities and youth-oriented musical groups in ad-
14 vertising create a pro-drinking environment.

15 (6) Treatment costs for fetal alcohol syndrome
16 (referred to in this section as “FAS”) and other al-
17 cohool-related birth defects in the United States are
18 estimated at nearly a third of a billion dollars. FAS
19 is one of the top three known causes of birth defects
20 with accompanying mental retardation, and the only
21 known preventable cause among the top three.
22 Among children born to women who drink heavily,
23 the incidence of FAS may be as high as 25 infants
24 with the syndrome per 1,000 live births. Among chil-
25 dren born to other women, the FAS incidence is be-

1 tween 1 and 3 infants with the syndrome per 1,000
2 live births. The incidence of other alcohol-related
3 birth defects is estimated to be 3 times greater than
4 that of FAS.

5 (7) According to the National Institute of Alco-
6 hol Abuse and Alcoholism, an estimated 18,000,000
7 persons in the United States who are 18 or older
8 currently experience problems as a result of alcohol
9 use. An estimated 4,500,000 young people are de-
10 pendant on alcohol or are problem drinkers.

11 (8) According to Healthy People 2000, the Na-
12 tional Health Promotion and Disease Prevention Ob-
13 jectives—

14 (A) nearly one-half of all deaths from
15 motor vehicle crashes are alcohol-related;

16 (B) alcohol is implicated in nearly one-half
17 of all fatal intentional injuries such as suicides
18 and homicides; and

19 (C) victims are intoxicated in approxi-
20 mately one-third of all homicides, drownings,
21 and boating deaths.

22 (9) An estimated 25 percent of all hospitalized
23 persons have alcohol-related problems.

24 (10) Alcohol advertising, especially in the
25 broadcast media, represents the single greatest

1 source of alcohol education for persons in the United
2 States. According to a 1990 study of 10- to 13-year-
3 olds, funded by the American Automobile Associa-
4 tion Foundation for Traffic Safety, there is a rela-
5 tionship between exposure and attention by an indi-
6 vidual to beer advertising, and expectations that the
7 individual drink as an adult.

8 (11) A major 1981 federally funded study
9 found a significant relationship between—

10 (A) exposure of individuals to alcoholic
11 beverage advertising as youth; and

12 (B) drinking behaviors and attitudes of the
13 individuals that can lead to certain forms of
14 problem drinking.

15 (12) Over 80 percent of 2,000 adults surveyed
16 in 1988 for the Bureau of Alcohol, Tobacco, and
17 Firearms by the Opinion Research Corporation be-
18 lieve that alcohol advertising influences underage
19 youth to drink alcoholic beverages. The survey also
20 found that the general public feels that the young
21 people of the United States constitute the group that
22 is most at risk from drinking alcoholic beverages.

23 (13) The alcoholic beverage industry spends ap-
24 proximately \$2,000,000,000 each year on advertising
25 and promotions in the United States.

1 (14) The 1988 Surgeon General’s Workshop on
2 Drunk Driving has recommended—

3 (A) that the level of alcoholic beverage ad-
4 vertising be matched with an equal number of
5 pro-health and pro-safety messages; and

6 (B) the inclusion of health warning mes-
7 sages in all alcohol advertising.

8 (15) The National Commission on Drug-Free
9 Schools’ September 1990 Final Report, “Toward a
10 Drug-Free Generation: A Nation’s Responsibility”,
11 recommends that Congress—

12 (A) require additional health and safety
13 messages on all alcohol products and advertis-
14 ing for the products; and

15 (B) consider enacting a ban on advertising
16 and promotion of alcohol if alcohol advertising
17 still targets youth and glamorizes alcohol use.

18 (16) Over two-thirds of persons surveyed in a
19 1989 Wall Street Journal poll favor requiring
20 warnings about the dangers of drinking both on al-
21 coholic beverage containers and in alcohol advertise-
22 ments. Nearly three-fourths of persons surveyed in
23 a 1990 Gallup Poll favor requiring health warning
24 messages in alcohol advertising.

1 (17) Alcohol in combination with other drugs is
2 the leading cause of emergency room drug abuse epi-
3 sodes.

4 (18) According to the Inspector General of the
5 Department of Health and Human Services, the av-
6 erage binge drinker is a 16-year-old male in the
7 tenth grade who was 12 years old when he took his
8 first drink.

9 (19) A third of all students do not understand
10 the intoxicating effects of alcohol. More than
11 2,600,000 students do not know a person can die
12 from an overdose of alcohol. A projected 259,000
13 students think that wine coolers or beer cannot get
14 a person drunk, cannot make a person sick, or can-
15 not do as much harm as other alcoholic beverages.

16 (20) In 1989, chronic liver disease, including
17 cirrhosis, was the ninth leading cause of death in the
18 United States. Of 41,000 deaths attributed to liver
19 disease in the United States, 46 percent were diag-
20 nostically associated with alcohol. Heavy alcohol use
21 is considered the most important risk factor for
22 chronic liver disease. Even among liver disease
23 deaths not coded as alcohol-related, approximately
24 50 percent are thought to be due to alcohol use.

1 (21) Between 5 and 24 percent of hypertension
2 cases are associated with alcohol. Many cases diag-
3 nosed as essential hypertension (high blood pressure
4 having no known causes) may actually have chronic
5 alcohol ingestion as their cause.

6 (22) Alcohol abuse is strongly associated with
7 increased risk of certain kinds of cancer, especially
8 cancer of the liver, esophagus, nasopharynx, and lar-
9 ynx. Alcohol is also associated with dietary defi-
10 ciency that may increase cancer risk.

11 **SEC. 3. HEALTH WARNINGS.**

12 (a) IN GENERAL.—On and after the expiration of the
13 6-month period following the date of enactment of this
14 Act, it shall be an unfair or deceptive act or practice in
15 commerce under section 5 of the Federal Trade Commis-
16 sion Act (15 U.S.C. 45) for any person to—

17 (1) advertise, or cause to be advertised, through
18 magazines, newspapers, brochures, and promotional
19 displays within the United States any alcoholic bev-
20 erage unless the advertising bears, in accordance
21 with requirements of section 4(a), one of the follow-
22 ing health warnings:

23 “**SURGEON GENERAL’S WARNING:** If
24 you are pregnant, don’t drink. Drinking alcohol
25 during pregnancy may cause mental retardation

1 and other birth defects. Avoid alcohol during
2 pregnancy. If you are pregnant and can't stop
3 drinking, call [insert appropriate toll free num-
4 ber].

5 **“SURGEON GENERAL’S WARNING:** If
6 you are under the age of 21, it’s against the
7 law to buy alcoholic beverages. For information
8 about teenagers and young adults and drinking,
9 call [insert appropriate toll free number].

10 **“SURGEON GENERAL’S WARNING:**
11 Alcohol is a drug and may be addictive. If you
12 know someone who has an alcohol or other drug
13 problem or has trouble controlling their drink-
14 ing, call [insert appropriate toll free number].

15 **“SURGEON GENERAL’S WARNING:**
16 Drive sober. If you don’t, you could lose your
17 driver’s license. Alcohol impairs your ability to
18 drive a car or operate machinery. If you or peo-
19 ple you love drink and drive, call [insert appro-
20 priate toll free number].

21 **“SURGEON GENERAL’S WARNING:**
22 Don’t mix alcohol with over-the-counter, pre-
23 scription, or illicit drugs. For more information
24 call [insert appropriate toll free number].

1 **“SURGEON GENERAL’S WARNING:** If
2 you drink too much alcohol too fast, you can
3 die. You can be poisoned by alcohol if you drink
4 [insert number of drinks] in [insert time]. To
5 find out more about alcohol poisoning call [in-
6 sert appropriate toll free number].

7 **“SURGEON GENERAL’S WARNING:**
8 Drinking increases your risks of high blood
9 pressure, liver disease, and cancer. The more
10 you drink, the more likely it is that you will
11 have such health problems. To find out how to
12 prevent getting such health problems call [in-
13 sert appropriate toll free number].”; or

14 (2) advertise, or cause to be advertised, through
15 radio or television broadcasting (including cable,
16 pay-per-view, and subscription television broadcast-
17 ing) any alcoholic beverage unless the advertising in-
18 cludes, in accordance with requirements of section
19 4(b), one of the following health warnings:

20 **“SURGEON GENERAL’S WARNING:** If
21 you are pregnant, don’t drink alcohol. Alcohol
22 may cause mental retardation and other birth
23 defects.

1 **“SURGEON GENERAL’S WARNING:** If
2 you are under the age of 21, it’s illegal to buy
3 alcoholic beverages.

4 **“SURGEON GENERAL’S WARNING:**
5 Alcohol is a drug and may be addictive.

6 **“SURGEON GENERAL’S WARNING:**
7 Drive sober. If you don’t, you could lose your
8 driver’s license.

9 **“SURGEON GENERAL’S WARNING:**
10 Don’t mix alcohol with over-the-counter, pre-
11 scription, or illicit drugs.

12 **“SURGEON GENERAL’S WARNING:** If
13 you drink too much alcohol too fast, you can die
14 of alcohol poisoning.

15 **“SURGEON GENERAL’S WARNING:**
16 Drinking increases your risk of high blood pres-
17 sure, liver disease, and cancer.”.

18 (b) TOLL FREE NUMBERS.—The Secretary of Health
19 and Human Services, in consultation with the Federal
20 Trade Commission, shall be responsible for establishing
21 and maintaining the toll free numbers referred to in the
22 health warnings required by subsection (a)(1). The Sec-
23 retary shall annually submit a report to Congress contain-
24 ing information on the number of calls received from per-

1 sons using the numbers and the types of referrals made
2 as a result of the calls.

3 **SEC. 4. REQUIREMENTS.**

4 (a) IN GENERAL.—

5 (1) USE OF WARNINGS.—The health warnings
6 required for alcoholic beverage advertisements by
7 section 3(a)(1) shall—

8 (A) comply with requirements, determined
9 by the Secretary of Health and Human Services
10 in regulations to take effect no later than 6
11 months after the date of the enactment of this
12 Act, that—

13 (i) one such health warning be located
14 in a conspicuous and prominent place in
15 each such advertisement;

16 (ii) all letters in such health warning
17 appear in conspicuous and legible type that
18 is not script or italic; and

19 (iii) such health warning be in con-
20 trast by typography, layout, and color with
21 all other printed material in the advertise-
22 ment, be surrounded by typographic lines
23 that form a box, and, on an appropriate
24 visual medium, appear on the front of an

1 advertisement as indicated by labeling of
2 the manufacturer or importer; and

3 (B) be rotated in an alternating sequence
4 on each advertisement of a brand style in ac-
5 cordance with a plan submitted by such manu-
6 facturer or importer to the Secretary.

7 (2) PLAN.—The Secretary of Health and
8 Human Services shall approve a plan submitted
9 under paragraph (1)(B) by a manufacturer or im-
10 porter that assures that an equal distribution of
11 each of the health warnings is displayed on each se-
12 quence of the same or a substantially similar adver-
13 tisement for a brand style at the same time. If the
14 plan is approved by the Secretary, the rotation de-
15 scribed in paragraph (1)(B) shall apply with respect
16 to the applicant submitting the plan during the 1-
17 year period beginning on the date of the approval.

18 (b) RADIO AND TELEVISION.—

19 (1) USE OF WARNINGS.—The health warnings
20 required for alcoholic beverage advertisements by
21 section 3(a)(2) shall—

22 (A) comply with requirements, determined
23 by the Secretary of Health and Human Services
24 in regulations to take effect not later than 6

1 months after the date of the enactment of this
2 Act, that—

3 (i) one such health warning be in-
4 cluded in a conspicuous and prominent
5 manner in each such advertisement;

6 (ii) the health warning be read as part
7 of the advertisement in an audible and de-
8 liberate manner and in a length of time
9 that allows for a clear understanding of
10 the health warning message by the in-
11 tended audience; and

12 (iii) with respect to each advertise-
13 ment for television—

14 (I) a graphic representation of
15 such health warning be included after
16 each such advertisement;

17 (II) all letters in such graphic
18 representation appear in conspicuous
19 and legible type that is not script or
20 italic;

21 (III) such health warning be sur-
22 rounded by typographic lines that
23 form a box in the graphic representa-
24 tion; and

1 (IV) such graphic representation
2 appear in the same length of time as
3 is required for the reading of the mes-
4 sage required by clause (ii); and

5 (B) be rotated in an alternating sequence
6 on each advertisement of a brand style in ac-
7 cordance with a plan submitted by such manu-
8 facturer or importer to the Secretary.

9 (2) PLAN.—The Secretary of Health and
10 Human Services shall approve a plan submitted
11 under paragraph (1)(B) by a manufacturer or im-
12 porter that assures that an equal distribution of
13 each of the health warnings is displayed on each se-
14 quence of the same or a substantially similar adver-
15 tisement for a brand style at the same time. If the
16 plan is approved by the Secretary, the rotation de-
17 scribed in paragraph (1)(B) shall apply with respect
18 to the applicant submitting the plan during the 1-
19 year period beginning on the date of the approval.

20 **SEC. 5. DEFINITION.**

21 For purposes of this Act:

22 (1) ALCOHOLIC BEVERAGE.—The term “alco-
23 holic beverage” includes any beverage in liquid form
24 that contains not less than one-half of one percent

1 of alcohol by volume and is intended for human con-
2 sumption.

3 (2) PERSON.—The term “person” means—

4 (A) an individual;

5 (B) a partnership;

6 (C) a joint stock company;

7 (D) a business trust;

8 (E) an association;

9 (F) a corporation;

10 (G) any business or legal entity not de-
11 scribed in subparagraphs (A) through (F), in-
12 cluding a receiver, trustee, or liquidating agent;
13 and

14 (H) a State, a State agency, or an officer
15 or employee of a State or State agency.

16 (3) STATE.—The term “State” includes—

17 (A) any political subdivision of any State;

18 (B) the District of Columbia;

19 (C) the Commonwealth of Puerto Rico;

20 (D) the Commonwealth of the Northern
21 Mariana Islands;

22 (E) Guam;

23 (F) the Virgin Islands;

24 (G) American Samoa;

25 (H) Wake Island;

1 (I) the Midway Islands;

2 (J) Kingman Reef; and

3 (K) Johnston Island.

4 (4) UNITED STATES.—The term “United
5 States”, when used in a geographical sense, includes
6 all States.

7 **SEC. 6. REPORT TO CONGRESS.**

8 (a) INVESTIGATION.—Not earlier than 2 years after
9 the date of the enactment of this Act, the Secretary of
10 Health and Human Services shall conduct an appropriate
11 investigation and consult with the Surgeon General to de-
12 termine whether available scientific information would jus-
13 tify a change in, an addition to, or deletion of, a health
14 warning set forth in section 3.

15 (b) REPORT.—If the Secretary of Health and Human
16 Services finds that available scientific information would
17 justify the change, addition, or deletion described in sub-
18 section (a), the Secretary shall promptly submit a report
19 to the appropriate committees of Congress containing—

20 (1) the information; and

21 (2) specific recommendations for such amend-
22 ments to this Act as the Secretary determines to be
23 appropriate and in the public interest.

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